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10  
11 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
12 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No.

2011-871

14 **DEBORAH J. MARINARO**  
15 **also known as DEBORAH A. JAEKLE**  
16 **3892 Corina Way**  
**Palo Alto, CA 94303**

**A C C U S A T I O N**

17 **Registered Nurse License No. RN 330637**  
18 **Public Health Nurse Certificate No. PHN**  
**41887**

19 Respondent.

20  
21 Complainant alleges:

22 **PARTIES**

23 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
24 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
25 Consumer Affairs.

26 2. On or about July 31, 1981, the Board of Registered Nursing issued Registered Nurse  
27 License Number RN 330637 to Deborah A. Jaekle, currently known as Deborah J. Marinaro  
28 (Respondent). The Registered Nurse License was in full force and effect at all times relevant to

1 the charges brought herein and will expire on March 31, 2011, unless renewed.

2 3. On or about June 4, 1987, the Board of Registered Nursing issued Public Health  
3 Nurse Certificate Number PHN 41887 to Respondent. The Public Health Nurse Certificate was  
4 in full force and effect at all times relevant to the charges brought herein and will expire on  
5 March 31, 2011, unless renewed.

6 JURISDICTION

7 4. This Accusation is brought before the Board of Registered Nursing (Board),  
8 Department of Consumer Affairs, under the authority of the following laws. All section  
9 references are to the Business and Professions Code unless otherwise indicated.

10 STATUTORY PROVISIONS

11 5. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part,  
12 that the Board may discipline any licensee, including a licensee holding a temporary or an  
13 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the  
14 Nursing Practice Act.

15 6. Section 2764 of the Code provides, in pertinent part, that the expiration of a license  
16 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the  
17 licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the  
18 Code, the Board may renew an expired license at any time within eight years after the expiration.

19 7. Section 2761(f) of the Code provides that the board may take disciplinary action  
20 against a certified or licensed nurse for conviction of a felony or of any offense substantially  
21 related to the qualifications, functions, and duties of a registered nurse, in which event the record  
22 of the conviction shall be conclusive evidence thereof.

23 8. Section 2762 of the Code states in pertinent part that, in addition to other acts  
24 constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act],  
25 it is unprofessional conduct for a person licensed under this chapter to do any of the following:

26 ...

27 (b) Use any controlled substance as defined in Division 10 (commencing with Section  
28 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in

1 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to  
2 himself or herself, any other person, or the public or to the extent that such use impairs his or her  
3 ability to conduct with safety to the public the practice authorized by his or her license.

4 (c) Be convicted of a criminal offense involving the prescription, consumption, or  
5 self-administration of any of the substances described in subdivisions (a) and (b) of this section,  
6 or the possession of, or falsification of a record pertaining to, the substances described in  
7 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence  
8 thereof.

9 9. Section 490 of the Code provides, in pertinent part, that a board may suspend or  
10 revoke a license on the ground that the licensee has been convicted of a crime substantially  
11 related to the qualifications, functions, or duties of the business or profession for which the  
12 license was issued.

13 10. Section 118, subdivision (b), of the Code provides that the suspension/expiration  
14 /surrender/cancellation of a license shall not deprive the Board of jurisdiction to proceed with a  
15 disciplinary action during the period within which the license may be renewed, restored, reissued  
16 or reinstated.

17 11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
18 administrative law judge to direct a licensee found to have committed a violation or violations of  
19 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
20 enforcement of the case.

#### 21 REGULATORY PROVISIONS

22 12. California Code of Regulations, title 16, section 1444, provides in pertinent part that a  
23 conviction or act shall be considered to be substantially related to the qualifications, functions or  
24 duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness  
25 of a registered nurse to practice in a manner consistent with the public health, safety, or welfare.

#### 26 CAUSE FOR DISCIPLINE

27 (Substantially Related Conviction)

28 13. Respondent is subject to disciplinary action under sections 2761(f), 2762(b), 2762(c),

1 2762(d), and/or 490, as defined in section 1444, title 16, of the California Code of Regulations, in  
2 that on or about January 31, 2007, Respondent was convicted by her plea of Nolo Contendere to  
3 the misdemeanor violation of California Vehicle Code section 23152(b), (driving while having a  
4 0.08 or higher blood alcohol), with an admission to a special allegation for driving under the  
5 influence with a blood alcohol content of .20% or higher. The Court granted Respondent 3 years  
6 probation with terms, to wit: obey and follow all orders of the Court; report any changes to  
7 address or telephone number within 10 days; use true name upon detention, citation or arrest; and  
8 report any detention or arrest within 10 days by writing to the Superior Court, regardless of guilt  
9 or innocence. The Court further ordered that Respondent be imprisoned 2 days, with 2 days  
10 credit for time served; pay fines and fees in monthly installments to the Court collections and  
11 compliance unit by March 19, 2007; abstain from the use of alcoholic beverages; submit to  
12 alcohol use detection tests as directed by the Court Probation Officer or any peace officer; not go  
13 to places where alcoholic beverages are the chief item of sale. Respondent was ordered to attend  
14 and complete the First Offender Drinking Driver's Program (level 3, nine months long); not drive  
15 a vehicle with any measurable alcohol in the blood; and if arrested for a violation of 23152 or  
16 23153 of the California Vehicle Code, not to refuse a chemical test for the detection of alcohol.

17 The circumstances of Respondent's conviction are as follows:

18 a. On or about August 24, 2006, at approximately 0753 hours, officers from the Walnut  
19 Creek Police Department investigated a traffic collision on or near 675 Ygnacio Valley Road.  
20 The officers found Respondent slumped over in the driver's seat of her car. They observed that  
21 the vehicle had damage on the front left side. The officers also observed that Respondent  
22 exhibited objective symptoms of intoxication, to wit: red/watery eyes; slow reaction to direction;  
23 slurred speech; a strong odor of alcohol from Respondent's breath and person; unable to follow  
24 simple directions and/or commands; lack of balance and coordination with positive indication of  
25 Nystagmus. Officers noted that her pupils lacked smooth pursuit and bounced immediately upon  
26 tracking a stimulus horizontally. The officers observed Respondent fall over as she tried to exit  
27 the car. She admitted to the officers that she drank three ounces of Vodka at 3:00 a.m. prior to  
28 driving. Respondent was arrested for suspicion of driving under the influence. She submitted to

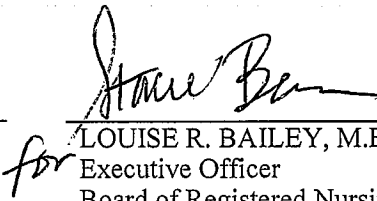
1 a blood test and was subsequently charged in Contra Costa Superior Court, Walnut Creek, Case  
2 No. 128254-0, with two misdemeanor counts of driving under the influence. Count one charged  
3 Respondent with violating Vehicle Code section 23152(a) (driving under the influence of alcohol  
4 or drugs) with a special allegation for driving under the influence, with a blood alcohol content of  
5 .20% or more. Count two charged Respondent with violating Vehicle Code section 23152(b)  
6 (driving while having a 0.08% or higher blood alcohol) with a special allegation for driving under  
7 the influence with a blood alcohol content of .20% or higher. Count One was dismissed and  
8 Respondent pled No Contest to Count Two, admitting the special allegation for driving under the  
9 influence with blood alcohol content of .20% or more.

10 PRAYER

11 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
12 and that following the hearing, the Board of Registered Nursing issue a decision:

- 13 1. Revoking or suspending Registered Nurse License Number RN 330637, issued to  
14 Deborah J. Marinaro, also known as Deborah A. Jackle;  
15 2. Revoking or suspending Public Health Nurse Certificate Number PHN 41887, issued  
16 to Deborah J. Marinaro;  
17 3. Ordering Deborah J. Marinaro to pay the Board of Registered Nursing the reasonable  
18 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
19 Code section 125.3;  
20 4. Taking such other and further action as deemed necessary and proper.

21  
22  
23 DATED: 4/21/11

*for*   
LOUISE R. BAILEY, M.ED., RN  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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